

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

**JEFFREY MARSHALL,**

Plaintiff,

v.

**DEPUTY CASTRO, et al.,**

Defendant.

Case No. 2:04-cv-01657-AK

**ORDER**


Jeffrey Marshall has filed several motions, all relating to his November 9 “Motion to Compel Defendants to Comply with Request for Production of Documents and Things which Plaintiff requested in 2005.” Marshall seeks an order compelling defendants to produce a raft of things he originally requested approximately four years ago.

Marshall’s request is blocked by the 2006 scheduling order, which states: “The parties may conduct discovery until August 4, 2006. Any motions necessary to compel discovery shall be filed by that date.” Scheduling orders may be modified only “upon a showing of good cause.” Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 608 (9th Cir. 1992) (quoting Fed. R. Civ. P. 16(b)). Marshall propounded his original discovery request on September 27, 2005. Defendants satisfied some of Marshall’s requests and objected to others on November 11, 2005.

This left Marshall nearly a year to bring a motion to compel. Marshall's pro se status does not justify his four-year delay. Thus, the motion to compel is denied, as is Marshall's October 26 motion for an extension of time to conduct additional discovery.

Marshall's opposition to defendants' motion in limine is dismissed as premature. He may renew his opposition if and when defendants actually file a motion in limine.

The clerk is ordered to send Marshall ten blank subpoena forms (USM-285) to serve on unincarcerated witnesses. Marshall is reminded, however, that as Judge Brennan's October 22 order explained: "The United States Marshal will not serve a subpoena upon an unincarcerated witness without the witness fee and travel expenses having been tendered."



ALEX KOZINSKI  
Chief Circuit Judge  
Sitting by designation

December 23, 2009